

REG-33-005 COMMENCEMENT OF PROCEEDINGS: CLAIMS FOR REFUND

005.01 These rules shall be followed when filing a claim for refund of tax.

005.01A Content. This information shall be supplied by a petitioner filing a claim for refund of tax with the Nebraska Department of Revenue. The claim shall:

005.01A(1) Identify the petitioner,

005.01A(2) Set for each ground under which the refund is requested together with facts sufficient to acquaint the Nebraska Department of Revenue with the exact basis thereof,

Before applying for a refund of Nebraska sales and use taxes paid for a pollution control facility under the Air and Water Pollution Control Tax Refund Act, the applicant shall receive approval of the Department of Environmental Control. The refund claim must also be accompanied by a descriptive listing of the equipment acquired, including the name and address of each supplier furnishing equipment incorporated into the project, the net cost of such equipment purchased from each supplier and the amount of sales tax paid to each supplier. See Reg-1-084.

005.01A(3) Demand the amount of tax to which the petitioner considers himself entitled,

005.01A(4) Be in writing.

005.01B Filing date.

005.01B(1) Sales and use tax, lodging tax, and litter fee. A claim for refund of sales and use tax, lodging tax, or litter fee must be filed with the Nebraska Department of Revenue by the person who made the overpayment or his attorney, assignee, executor, or administrator within three years from the last day of the month following the close of the period for which the overpayment was made, or within six months after any determination became final under the provisions of section 77-2709, R.R.S. 1943, or within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires the later unless the credit relates to a period for which a waiver has been given.

005.01B(2) Sales and use tax under the Air and Water Pollution Control Tax Refund Act. A claim for refund of sales or use tax under the Air and Water Pollution Control Tax Refund Act must be filed with the Nebraska Department of Revenue within three years from the date the pollution control facility becomes operational; provided, that an air pollution control facility must be originally made operational subsequent to April 13, 1974.

005.01B(3) Income or franchise tax. A claim for refund of income or franchise tax must be filed with the Nebraska Department of Revenue within three years

from the time the return was filed or within two years from the date of payment of the tax, whichever is later. A return filed before the due date of the return will be presumed filed on the last day of the filing period. If no return was filed, the refund claim together with the request for hearing must be filed within two years from the date the tax was paid. If an agreement for an extension of an assessment period was signed for the parties within the time otherwise allowed for refund claims, the written claims for refund must be filed within six months after the expiration of the agreement or within the time otherwise provided above, whichever is later. If the petitioner's claim for refund is based upon a change in federal income tax liability, it must be filed within two years from the date when the notice of amended return was so required to be filed.

005.01B(4) Special fuels tax. A claim for credit or refund of special fuels tax must be filed with the Nebraska Department of Revenue within one year from the date of payment of the tax.

005.01B(5) Aircraft fuels tax. A claim for refund of aircraft fuels tax must be filed with the Nebraska Department of Revenue within seven months from the date of purchase or invoice.

005.01B(6) Estate tax. A claim for refund of estate tax must be filed with the Nebraska Department of Revenue within four years after the date of such overpayment.

005.01B(7) Motor vehicle fuels tax or interstate motor carrier's fuel tax. A claim for credit or refund of motor vehicle fuels tax or interstate motor carrier's fuel tax must be filed with the Nebraska Department of Revenue within two years from the date of payment of the tax.

005.01B(8) Documentary stamp tax and "other taxes" where Nebraska statutes do not provide for refund. A claim for credit or refund of documentary stamp tax or any "other tax" where Nebraska statutes do not provide for a refund must be filed with the Nebraska Department of Revenue within two years from the date of payment of the tax.

005.01C Limitation. The Nebraska Department of Revenue will not refund a taxpayer's overpayment of tax under any program administered by the Department when the amount is less than \$2.00.

(Sections 3-151, 66-410.04, 66-413, 66-447, 66-627, 76-906, 77-369, 77-1735, 77-2106.01, 77-2610, 77-2708(2), 77-2775, 77-2793, 77-27,119, 77-27,150, 77-27,154, 81-1260, 81-1559, and 84-909(1), R.R.S. 1943. Sections 77-2711(1)(a), and 77-2715(3)(a), R.S.Supp., 1982. December 5, 1982.)